

# The Gazette of India



EXTRAORDINARY

PART II—Section 2

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RAJYA SABHA

The following Bill was introduced in the Rajya Sabha on the 19th June, 1962:—

BILL No. XI OF 1962

*A bill to consolidate and amend the law for the limitation of suits and other proceedings and for purposes connected therewith.*

Be it enacted by Parliament in the Thirteenth Year of the Republic of India as follows:—

## PART I

### PRELIMINARY

1. (1) This Act may be called the Limitation Act, 1962.

Short title,  
extent and  
commence-  
ment.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

(a) “applicant” includes—

Definitions.

(i) a petitioner,

(ii) any person from or through whom an applicant derives his right to apply;

(iii) any person whose estate is represented by the applicant as executor, administrator or other representative;

(b) “application” includes a petition;

(433)

(c) "bill of exchange" includes a hundi and a cheque;

(d) "bond" includes any instrument whereby a person obliges himself to pay money to another, on condition that the obligation shall be void if a specified act is performed, or is not performed, as the case may be;

(e) "defendant" includes—

(i) any person from or through whom a defendant derives his liability to be sued;

(ii) any person whose estate is represented by the defendant as executor, administrator or other representative;

(f) "easement" includes a right not arising from contract, by which one person is entitled to remove and appropriate for his own profit any part of the soil belonging to another or anything growing in, or attached to, or subsisting upon, the land of another;

(g) "foreign country" means any country other than India;

(h) "good faith"—nothing shall be deemed to be done in good faith which is not done with due care and attention;

(i) "plaintiff" includes—

(i) any person from or through whom a plaintiff derives his right to sue;

(ii) any person whose estate is represented by the plaintiff as executor, administrator or other representative;

(j) "period of limitation" means the period of limitation prescribed for any suit, appeal or application by the Schedule, and "prescribed period" means the period of limitation computed in accordance with the provisions of this Act;

(k) "promissory note" means any instrument whereby the maker engages absolutely to pay a specified sum of money to another at a time therein limited, or on demand, or at sight;

(l) "suit" does not include an appeal or an application;

(m) "tort" means a civil wrong which is not exclusively the breach of a contract or the breach of a trust;

(n) "trustee" does not include a *benamidar*, a mortgagee remaining in possession after the mortgage has been satisfied or a person in wrongful possession without title.

## PART II

## LIMITATION OF SUITS, APPEALS AND APPLICATIONS

3. (1) Subject to the provisions contained in sections 4 to 23 (inclusive), every suit instituted, appeal preferred, and application made after the prescribed period shall be dismissed, although limitation has not been set up as a defence. Bar of limitation-

(2) For the purposes of this Act,—

(a) a suit is instituted,—

(i) in an ordinary case, when the plaint is presented to the proper officer;

(ii) in the case of a pauper, when his application for leave to sue as a pauper is made; and

(iii) in the case of a claim against a company which is being wound up by the court, when the claimant first sends in his claim to the official liquidator;

(b) any claim by way of a set off or a counter claim, shall be treated as a separate suit and shall be deemed to have been instituted—

(i) in the case of a set off, on the same date as the suit in which the set off is pleaded;

(ii) in the case of a counter claim, on the date on which the counter claim is made in court;

(c) an application by notice of motion in a High Court is made when the application is presented to the proper officer of that court.

4. Where the prescribed period for any suit, appeal or application expires on a day when the court is closed, the suit, appeal or application may be instituted, preferred or made on the day when the court re-opens. Expiry of prescribed period when court is closed.

5. Any appeal or any application, other than an application under any of the provisions of Order XXI of the Code of Civil Procedure, 1908, may be admitted after the prescribed period if the appellant or the applicant satisfies the court that he had sufficient cause for not preferring the appeal or making the application within such period. Extension of prescribed period in certain cases.

*Explanation.*—The fact that the appellant or the applicant was misled by any order, practice or judgment of the High Court in ascertaining or computing the prescribed period may be sufficient cause within the meaning of this section.

Legal disability.

6. (1) Where a person entitled to institute a suit or make an application for the execution of a decree is, at the time from which the prescribed period is to be reckoned, a minor or insane, or an idiot, he may institute the suit or make the application within the same period after the disability has ceased, as would otherwise have been allowed from the time specified therefor in the third column of the Schedule.

(2) Where such person is, at the time from which the prescribed period is to be reckoned, affected by two such disabilities, or where, before his disability has ceased, he is affected by another disability, he may institute the suit or make the application within the same period after both disabilities have ceased, as would otherwise have been allowed from the time so specified.

(3) Where the disability continues up to the death of that person, his legal representative may institute the suit or make the application within the same period after the death, as would otherwise have been allowed from the time so specified.

(4) Where the legal representative referred to in sub-section (3) is, at the date of the death of the person whom he represents, affected by any such disability, the rules contained in sub-sections (1) and (2) shall apply.

(5) Where a person under disability dies after the disability ceases but within the period allowed to him under this section, his legal representative may institute the suit or make the application within the same period after the death, as would otherwise have been available to that person had he not died.

Disability of one of several persons.

7. Where one of several persons jointly entitled to institute a suit or make an application for the execution of a decree is under any such disability, and a discharge can be given without the concurrence of such person, time will run against them all; but, where no such discharge can be given, time will not run as against any of them until one of them becomes capable of giving such discharge without the concurrence of the others or until the disability has ceased.

*Explanation I.*—This section applies to a discharge from every kind of liability, including a liability in respect of any immovable property.

*Explanation II.*—For the purposes of this section, the manager of a Hindu undivided family governed by the Mitakshara law shall be deemed to be capable of giving a discharge without the concurrence of the other members of the family only if he is in management of the joint family property.

8. Nothing in section 6 or in section 7 applies to suits to enforce rights of pre-emption, or shall be deemed to extend, for more than three years from the cessation of the disability or the death of the person affected thereby, the period of limitation for any suit or application. Special exceptions.

9. Where once time has begun to run, no subsequent disability or inability to institute a suit or make an application stops it: Continuous running of time.

Provided that, where letters of administration to the estate of a creditor have been granted to his debtor, the running of the period of limitation for a suit to recover the debt shall be suspended while the administration continues.

10. Notwithstanding anything contained in the foregoing provisions of this Act, no suit against a person in whom property has become vested in trust for any specific purpose, or against his legal representatives or assigns (not being assigns for valuable consideration), for the purpose of following in his or their hands such property, or the proceeds thereof, or for an account of such property or proceeds, shall be barred by any length of time. Suits against trustees and their representatives.

*Explanation.*—For the purposes of this section any property comprised in a Hindu, Muslim or Buddhist religious or charitable endowment shall be deemed to be property vested in trust for a specific purpose and the manager of the property shall be deemed to be the trustee thereof.

11. (1) Suits instituted in the territories to which this Act extends on contracts entered into in a foreign country shall be subject to the rules of limitation contained in this Act. Suits on foreign contracts.

(2) No foreign rule of limitation shall be a defence to a suit instituted in the said territories on a contract entered into in a foreign country unless the rule has extinguished the contract and the parties were domiciled in such country during the period prescribed by such rule.

(3) This section applies to contracts entered into in the State of Jammu and Kashmir as it applies to contracts entered into in a foreign country.

## PART III

## COMPUTATION OF PERIOD OF LIMITATION

Exclusion of  
time in legal  
proceedings.

12. (1) In computing the period of limitation for any suit, appeal or application, the day from which such period is to be reckoned, shall be excluded.

(2) In computing the period of limitation for an appeal or an application for leave to appeal or for revision or for review of a judgment, the day on which the judgment complained of was pronounced and the time requisite for obtaining a copy of the decree, sentence or order appealed from or sought to be revised or reviewed shall be excluded.

(3) Where a decree or order is appealed from or sought to be revised or reviewed, or where an application is made for leave to appeal from a decree or order, the time requisite for obtaining a copy of the judgment on which the decree or order is founded shall also be excluded.

(4) In computing the period of limitation for an application to set aside an award, the time requisite for obtaining a copy of the award shall be excluded.

*Explanation.*—In computing under this section the time requisite for obtaining a copy of a decree or an order, any time taken by the court to prepare the decree or order before an application for a copy thereof is made shall not be excluded.

Exclusion of  
time of pro-  
ceeding *bona*  
*fide* in court  
without  
jurisdiction.

13. (1) In computing the period of limitation for any suit the time during which the plaintiff has been prosecuting with due diligence another civil proceeding, whether in a court of first instance or of appeal or revision, against the defendant shall be excluded, where the proceeding relates to the same matter in issue and is prosecuted in good faith in a court which, from defect of jurisdiction or other cause of a like nature, is unable to entertain it.

(2) In computing the period of limitation for any application, the time during which the applicant has been prosecuting with due diligence another civil proceeding, whether in a court of first instance or of appeal or revision, against the same party for the same relief shall be excluded, where such proceeding is prosecuted in good faith in a court which, from defect of jurisdiction or other cause of a like nature, is unable to entertain it.

(3) Notwithstanding anything contained in rule 2 of Order XXIII of the Code of Civil Procedure, 1908, the provisions of sub-section (1) shall apply in relation to a fresh suit instituted on permission granted by the court under rule 1 of that Order, where such permission is granted on the ground that the first suit must fail by reason

of a defect in the jurisdiction of the court or other cause of a like nature.

*Explanation.*—For the purposes of this section,—

(a) in excluding the time during which a former civil proceeding was pending, the day on which that proceeding was instituted and the day on which it ended shall both be counted;

(b) a plaintiff or an applicant resisting an appeal shall be deemed to be prosecuting a proceeding;

(c) misjoinder of parties or of causes of action shall be deemed to be a cause of a like nature with defect of jurisdiction.

14. (1) In computing the period of limitation for any suit or application for the execution of a decree, the institution or execution of which has been stayed by injunction or order, the time of the continuance of the injunction or order, the day on which it was issued or made, and the day on which it was withdrawn, shall be excluded.

Exclusion of time in certain other cases.

(2) In computing the period of limitation for any suit of which notice has been given, or for which the previous consent or sanction of the Government or any other authority is required, in accordance with the requirements of any law for the time being in force, the period of such notice or, as the case may be, the time required for obtaining such consent or sanction shall be excluded.

*Explanation.*—In excluding the time required for obtaining the consent or sanction of the Government or any other authority, the date on which the application was made for obtaining the consent or sanction and the date of receipt of the order of the Government or other authority shall both be counted.

(3) In computing the period of limitation for any suit or application for execution of a decree by any receiver or *interim* receiver appointed in proceedings for the adjudication of a person as an insolvent or by any liquidator or provisional liquidator appointed in proceedings for the winding up of a company, the period beginning with the date of institution of such proceeding and ending with the expiry of three months from the date of appointment of such receiver or liquidator, as the case may be, shall be excluded.

(4) In computing the period of limitation for a suit for possession by a purchaser at a sale in execution of a decree, the time during which a proceeding to set aside the sale has been prosecuted shall be excluded.

(5) In computing the period of limitation for any suit the time during which the defendant has been absent from India and from the territories outside India under the administration of the Central Government, shall be excluded.

Effect of death on or before the accrual of the right to sue.

15. (1) Where a person who would, if he were living, have a right to institute a suit or make an application dies before the right accrues, or where a right to institute a suit or make an application accrues only on the death of a person, the period of limitation shall be computed from the time when there is a legal representative of the deceased capable of instituting such suit or making such application.

(2) Where a person against whom, if he were living, a right to institute a suit or make an application would have accrued dies before the right accrues, or where a right to institute a suit or make an application against any person accrues on the death of such person, the period of limitation shall be computed from the time when there is a legal representative of the deceased against whom the plaintiff may institute such suit or make such application.

(3) Nothing in sub-section (1) or sub-section (2) applies to suits to enforce rights of pre-emption or to suits for the possession of immovable property or of a hereditary office.

Effect of fraud or mistake.

16. (1) Where, in the case of any suit or application for which a period of limitation is prescribed by this Act,—

(a) the suit or application is based upon the fraud of the defendant or respondent or his agent; or

(b) the knowledge of the right or title on which a suit or application is founded is concealed by the fraud of any such person as aforesaid; or

(c) the suit or application is for relief from the consequences of a mistake; or

(d) where any document necessary to establish the right of the plaintiff or applicant has been fraudulently concealed from him;

the period of limitation shall not begin to run until the plaintiff or applicant has discovered the fraud or the mistake or could, with reasonable diligence, have discovered it; or in the case of a concealed document, until the plaintiff or the applicant first had the means of producing the concealed document or compelling its production:



Provided that nothing in this section shall enable any suit to be instituted or application to be made to recover or enforce any charge against, or set aside any transaction affecting, any property which—

(i) in the case of fraud, has been purchased for valuable consideration by a person who was not a party to the fraud and did not at the time of the purchase know, or have reason to believe, that any fraud had been committed, or

(ii) in the case of mistake, has been purchased for valuable consideration subsequently to the transaction in which the mistake was made, by a person who did not know, or have reason to believe, that the mistake had been made, or

(iii) in the case of a concealed document, has been purchased for valuable consideration by a person who was not a party to the concealment and, did not at the time of purchase know, or have reason to believe, that the document had been concealed.

(2) Where a judgment-debtor has, by fraud or force, prevented the execution of a decree or order within the period of limitation, the court may, on the application of the judgment-creditor made after the expiry of the said period extend the period for execution of the decree or order:

Provided that such application is made within one year from the date of the discovery of the fraud or the cessation of force, as the case may be.

17. (1) Where, before the expiration of the prescribed period for a suit or application in respect of any property or right, an acknowledgment of liability in respect of such property or right has been made in writing, signed by the party against whom such property or right is claimed, or by any person through whom he derives his title or liability, a fresh period of limitation shall be computed from the time when the acknowledgment was so signed.

*Effect of acknowledgment in writing.*

(2) Where the writing containing the acknowledgment is undated, oral evidence may be given of the time when it was signed; but subject to the provisions of the Indian Evidence Act, 1872, oral evidence of its contents shall not be received.

1 of 1872.

*Explanation.*—For the purposes of this section,—

(a) an acknowledgment may be sufficient though it omits to specify the exact nature of the property or right, or avers that the time for payment, delivery, performance or enjoyment has not yet come or is accompanied by a refusal to pay, deliver,

perform or permit to enjoy, or is coupled with a claim to set-off, or is addressed to a person other than a person entitled to the property or right,

(b) the word "signed" means signed either personally or by an agent duly authorised in this behalf, and

(c) an application for the execution of a decree or order shall not be deemed to be an application in respect of any property or right.

Effect of  
payment on  
account of  
debt or of  
interest on  
legacy.

18. Where payment on account of a debt or of interest on a legacy is made before the expiration of the prescribed period by the person liable to pay the debt or legacy or by his agent duly authorised in this behalf, a fresh period of limitation shall be computed from the time when the payment was made:

Provided that, save in the case of payment of interest made before the 1st day of January, 1928, an acknowledgment of the payment appears in the handwriting of, or in a writing signed by, the person making the payment.

*Explanation.*—For the purposes of this section,—

(a) where mortgaged land is in the possession of the mortgagee, the receipt of the rent or produce of such land shall be deemed to be a payment;

(b) "debt" does not include money payable under a decree or order of a court.

Effect of  
acknowledg-  
ment or  
payment by  
another  
person.

19. (1) The expression "agent duly authorised in this behalf" in sections 17 and 18 shall, in the case of a person under disability, include his lawful guardian, committee or manager or an agent duly authorised by such guardian, committee or manager to sign the acknowledgment or make the payment.

(2) Nothing in the said sections renders one of several joint contractors, partners, executors or mortgagees chargeable by reason only of a written acknowledgment signed by, or of a payment made by, or by the agent of, any other or others of them.

(3) For the purposes of the said sections,—

(a) an acknowledgment signed or a payment made in respect of any liability by, or by the duly authorised agent of, any limited owner of property who is governed by Hindu law, shall be a valid acknowledgment or payment, as the case may be, against a reversioner succeeding to such liability; and

(b) where a liability has been incurred by, or on behalf of a Hindu undivided family as such, an acknowledgment or

payment made by, or by the duly authorised agent of, the manager of the family for the time being shall be deemed to have been made on behalf of the whole family.

20. (1) Where after the institution of a suit, a new plaintiff or defendant is substituted or added, the suit shall, as regards him, be deemed to have been instituted when he was so made a party:

Effect of substituting or adding new plaintiff or defendant.

Provided that where the court is satisfied that the omission to include a new plaintiff or defendant was due to a mistake made in good faith it may direct that the suit as regards such plaintiff or defendant shall be deemed to have been instituted on any earlier date.

(2) Nothing in sub-section (1) shall apply to a case where a party is added or substituted owing to assignment or devolution of any interest during the pendency of a suit or where a plaintiff is made a defendant or a defendant is made a plaintiff.

21. In the case of a continuing breach of contract or in the case of a continuing tort, a fresh period of limitation begins to run at every moment of the time during which the breach or the tort, as the case may be, continues.

Continuing breaches and torts.

22. In the case of a suit for compensation for an act which does not give rise to a cause of action unless some specific injury actually results therefrom, the period of limitation shall be computed from the time when the injury results.

Suits for compensation for acts not actionable without special damage.

23. All instruments shall for the purposes of this Act be deemed to be made with reference to the Gregorian calendar.

Computation of time mentioned in instruments.

## PART IV

### ACQUISITION OF OWNERSHIP BY POSSESSION

24. (1) Where the access and use of light or air to and for any building have been peaceably enjoyed therewith as an easement, and as of right, without interruption, and for twenty years, and where any way or watercourse or the use of any water or any other easement (whether affirmative or negative) has been peaceably and openly enjoyed by any person claiming title thereto as an easement and as of right without interruption and for twenty years, the right to such access and use of light or air, way, watercourse, use of water, or other easement shall be absolute and indefeasible.

Acquisition of easements by prescription.

(2) Each of the said periods of twenty years shall be taken to be a period ending within two years next before the institution of the suit wherein the claim to which such period relates is contested.

(3) Where the property over which a right is claimed under sub-section (1) belongs to the Government that sub-section shall be read as if for the words "twenty years" the words "thirty years" were substituted.

*Explanation.*—Nothing is an interruption within the meaning of this section, unless where there is an actual discontinuance of the possession or enjoyment by reason of an obstruction by the act of some person other than the claimant, and unless such obstruction is submitted to or acquiesced in for one year after the claimant has notice thereof and of the person making or authorising the same to be made.

Exclusion in  
favour of  
reversioner  
of servient  
tenement.

25. Where any land or water upon, over or from, which any easement has been enjoyed or derived has been held under or by virtue of any interest for life or in terms of years exceeding three years from the granting thereof, the time of the enjoyment of such easement during the continuance of such interest or term shall be excluded in the computation of the period of twenty years in case the claim is, within three years next after the determination of such interest or term, resisted by the person entitled on such determination to the said land or water.

Extinguish-  
ment of right  
to property.

26. At the determination of the period hereby limited to any person for instituting a suit for possession of any property, his right to such property shall be extinguished.

## PART V

### MISCELLANEOUS

Amendment  
of certain  
Acts.

27. In the Indian Easements Act, 1882, in section 15, for the words "sixty years", the words "thirty years" shall be substituted; and in the Code of Civil Procedure, 1908, section 48 shall be omitted.

5 of 1882.

5 of 1908.

Savings.

28. (1) Nothing in this Act shall affect section 25 of the Indian Contract Act, 1872.

9 of 1872.

(2) Where any special or local law prescribes for any suit, appeal or application a period of limitation different from the period prescribed by the Schedule, the provisions of section 3 shall apply as

if such period were the period prescribed by the Schedule and for the purpose of determining any period of limitation prescribed for any suit, appeal or application by any special or local law, the provisions contained in sections 4 to 23 (inclusive) shall apply only in so far as, and to the extent to which, they are not expressly excluded by such special or local law.

(3) Save as otherwise provided in any law for the time being in force with respect to marriage and divorce, nothing in this Act shall apply to any suit or other proceeding under any such law.

(4) Sections 24 and 25 and the definition of "easement" in section 2 shall not apply to cases arising in the territories to which the Indian Easements Act, 1882, may for the time being extend.

5 of 1882.

29. Notwithstanding anything contained in this Act,—

9 of 1908.

(a) any suit for which the period of limitation is shorter than the period of limitation prescribed by the Indian Limitation Act, 1908, may be instituted within a period of two years next after the commencement of this Act or within the period prescribed for such suit by the Indian Limitation Act, 1908, whichever period expires earlier:

Provision for suits, etc., for which the prescribed period is shorter than the period prescribed by the Indian Limitation Act, 1908.

Provided that a suit to redeem or recover possession of any immovable property which has been mortgaged may be instituted within a period of twelve years next after such commencement or within a period of thirty years from the date of accrual of the right to redeem or recover possession, whichever period expires later;

(b) any appeal or application for which the period of limitation is shorter than the period of limitation prescribed by the Indian Limitation Act, 1908, may be preferred or made within a period of thirty days next after the commencement of this Act or within the period prescribed for such appeal or application by the Indian Limitation Act, 1908, whichever period expires earlier.

30. Nothing in this Act shall,—

9 of 1908.

(a) enable any suit, appeal or application to be instituted, preferred or made, for which the period of limitation prescribed by the Indian Limitation Act, 1908, expired before the commencement of this Act; or

Provisions as to barred or pending suits, etc.

(b) affect any suit, appeal or application instituted, preferred or made before, and pending at, such commencement.

9 of 1908.

31. The Indian Limitation Act, 1908, is hereby repealed.

Repeal.

THE SCHEDULE  
(PERIODS OF LIMITATION)  
[See sections 2 (j) and 3]

FIRST DIVISION—SUITS

Description of suit	Period of limitation	Time from which period begins to run
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PART I.—SUITS RELATING TO ACCOUNTS

1 For the balance due on a mutual, open and current account, where there have been reciprocal demands between the parties.	Three years.	The close of the year in which the last item admitted or proved is entered in the account; such year to be computed as in the account.
2 Against a factor for an account.	Three years.	When the account is, during the continuance of the agency, demanded and refused or, where no such demand is made, when the agency terminates.
3 By a principal against his agent for movable property received by the latter and not accounted for.	Three years.	When the account is, during the continuance of the agency, demanded and refused or, where no such demand is made, when the agency terminates.
4 Other suits by principals against agents for neglect or misconduct.	Three years.	When the neglect or misconduct becomes known to the plaintiff.
5 For an account and a share of the profits of a dissolved partnership.	Three years.	The date of the dissolution.

PART II.—SUITS RELATING TO CONTRACTS

6 For a seaman's wages . . .	Three years.	The end of the voyage during which the wages are earned.
7 For wages in the case of any other person.	Three years.	When the wages accrue due.
8 For the price of food or drink sold by the keeper of a hotel, tavern or lodging-house.	Three years.	When the food or drink is delivered.
9 For the price of lodging . . .	Three years.	When the price becomes payable.

Description of suit	Period of limitation	Time from which period begins to run
10 Against a carrier for compensation for losing or injuring goods.	Three years.	When the loss or injury occurs.
11 Against a carrier for compensation for non-delivery of, or delay in delivering, goods.	Three years.	When the goods ought to be delivered.
12 For the hire of animals, vehicles, boats or household furniture.	Three years.	When the hire becomes payable.
13 For the balance of money advanced in payment of goods to be delivered.	Three years.	When the goods ought to be delivered.
14 For the price of goods sold and delivered where no fixed period of credit is agreed upon.	Three years.	The date of the delivery of the goods.
15 For the price of goods sold and delivered to be paid for after the expiry of a fixed period of credit.	Three years.	When the period of credit expires.
16 For the price of goods sold and delivered to be paid for by a bill of exchange, no such bill being given.	Three years.	When the period of the proposed bill elapses.
17 For the price of trees or growing crops sold by the plaintiff to the defendant where no fixed period of credit is agreed upon.	Three years.	The date of the sale.
18 For the price of work done by the plaintiff for the defendant at his request, where no time has been fixed for payment.	Three years.	When the work is done.
19 For money payable for money lent.	Three years.	When the loan is made.
20 Like suit when the lender has given a cheque for the money.	Three years.	When the cheque is paid.
21 For money lent under an agreement that it shall be payable on demand.	Three years.	When the loan is made.
22 For money deposited under an agreement that it shall be payable on demand, including money of a customer in the hands of his banker so payable.	Three years.	When the demand is made.

Description of suit	Period of limitation	Time from which period begins to run
23 For money payable to the plaintiff for money paid for the defendant.	Three years.	When the money is paid.
24 For money payable by the defendant to the plaintiff for money received by the defendant, for the plaintiff's use.	Three years.	When the money is received.
25 For money payable for interest upon money due from the defendant to the plaintiff.	Three years.	When the interest becomes due.
26 For money payable to the plaintiff for money found to be due from the defendant to the plaintiff on accounts stated between them.	Three years.	When the accounts are stated in writing signed by the defendant or his agent duly authorised in this behalf, unless where the debt is, by a simultaneous agreement in writing signed as aforesaid, made payable at a future time, and then when that time arrives.
27 For compensation for breach of a promise to do anything at a specified time, or upon the happening of a specified contingency.	Three years.	When the time specified arrives or the contingency happens.
28 On a single bond, where a day is specified for payment.	Three years.	The day so specified.
29 On a single bond, where no such day is specified.	Three years.	The date of executing the bond.
30 On a bond subject to a condition.	Three years.	When the condition is broken.
31 On a bill of exchange or promissory note payable at a fixed time after date.	Three years.	When the bill or note falls due.
32 On a bill of exchange payable at sight, or after sight, but not at a fixed time.	Three years.	When the bill is presented.
33 On a bill of exchange accepted payable at a particular place.	Three years.	When the bill is presented at that place.
34 On a bill of exchange or promissory note payable at a fixed time after sight or after demand.	Three years.	When the fixed time expires.



Description of suit	Period of limitation	Time from which period begins to run
35 On a bill of exchange or promissory note payable on demand and not accompanied by any writing restraining or postponing the right to sue.	Three years.	The date of the bill or note.
36 On a promissory note or bond payable by instalments.	Three years.	The expiration of the first term of payment as to the part then payable ; and for the other parts, the expiration of the respective terms of payment.
37 On a promissory note or bond payable by instalments, which provides that, if default be made in payment of one or more instalments, the whole shall be due.	Three years.	When the default is made, unless where the payee or obligee waives the benefit of the provision and then when fresh default is made in respect of which there is no such waiver.
38 On a promissory note given by the maker to a third person to be delivered to the payee after a certain event should happen.	Three years.	The date of the delivery to the payee.
39 On a dishonoured foreign bill where protest has been made and notice given.	Three years.	When the notice is given.
40 By the payee against the drawer of a bill of exchange, which has been dishonoured by non-acceptance.	Three years.	The date of the refusal to accept.
41 By the acceptor of an accommodation-bill against the drawer.	Three years.	When the acceptor pays the amount of the bill.
42 By a surety against the principal debtor.	Three years.	When the surety pays the creditor.
43 By a surety against a co-surety.	Three years.	When the surety pays anything in excess of his own share.
44 (a) On a policy of insurance when the sum insured is payable after proof of the death has been given to or received by the insurers.	Three years.	The date of the death of the deceased.
(b) On a policy of insurance when the sum insured is payable after proof of the loss has been given to or received by the insurers.		The date of the occurrence causing the loss.
45 By the assured to recover premia paid under a policy voidable at the election of the insurers.	Three years.	When the insurers elect to avoid the policy.

Description of suit	Period of limitation	Time from which period begins to run
46 Under the Indian Succession Act, 1925, section 360 or section 361, to compel a refund by a person to whom an executor or administrator has paid a legacy or distributed assets.	Three years.	The date of the payment or distribution.
47 For money paid upon an existing consideration which afterwards fails.	Three years.	The date of the failure.
48 For contribution by a party who has paid the whole or more than his share of the amount due under a joint decree, or by a sharer in a joint estate who has paid the whole or more than his share of the amount of revenue due from himself and his co-sharers.	Three years	The date of the payment in excess of the plaintiff's own share.
49 By a co-trustee to enforce against the estate of a deceased trustee a claim for contribution.	Three years.	When the right to contribution accrues.
50 By the manager of a joint estate of an undivided family for contribution, in respect of a payment made by him on account of the estate.	Three years.	The date of the payment.
51 For the profits of immovable property belonging to the plaintiff which have been wrongfully received by the defendant.	Three years.	When the profits are received.
52 For arrears of rent	Three years.	When the arrears become due.
53 By a vendor of immovable property for personal payment of unpaid purchase-money.	Three years.	The time fixed for completing the sale, or (where the title is accepted after the time fixed for completion) the date of the acceptance.
54 For specific performance of a contract.	Three years.	The date fixed for the performance, or, if no such date is fixed, when the plaintiff has notice that performance is refused.
55 For compensation for the breach of any contract, express or implied not herein specially provided for.	Three years.	When the contract is broken or (where there are successive breaches) when the breach in respect of which the suit is instituted occurs or (where the breach is continuing) when it ceases.

39 of 1925.

Description of suit	Period of limitation	Time from which period begins to run
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## PART III.—SUITS RELATING TO DECLARATIONS

56 To declare the forgery of an instrument issued or registered.	Three years.	When the issue or registration becomes known to the plaintiff.
57 To obtain a declaration that an alleged adoption is invalid, or never, in fact, took place.	Three years.	When the alleged adoption becomes known to the plaintiff.
58 To obtain any other declaration.	Three years.	When the right to sue first accrues.

## PART IV.—SUITS RELATING TO DECREES AND INSTRUMENTS

59 To cancel or set aside an instrument or decree or for the rescission of a contract.	Three years.	When the facts entitling the plaintiff to have the instrument or decree cancelled or set aside or the contract rescinded first become known to him.
60 To set aside a transfer of property made by the guardian of a ward—		
(a) by the ward who has attained majority;	Three years.	When the ward [attains majority.
(b) by the ward's legal representative—		
(i) when the ward dies within three years from the date of attaining majority;	Three years.	When the ward attains majority.
(ii) when the ward dies before attaining majority.	Three years.	When the ward dies.

## PART V.—SUITS RELATING TO IMMOVABLE PROPERTY

61 By a mortgager—		
(a) to redeem or recover possession of immovable property mortgaged;	Thirty years.	When the right to redeem or to recover possession accrues.
(b) to recover possession of immovable property mortgaged and afterwards transferred by the mortgagee for a valuable consideration.	Twelve years.	When the transfer becomes known to the plaintiff.
(c) to recover surplus collections received by the mortgagee after the mortgage has been satisfied.	Three years.	When the mortgagor re-enters on the mortgaged property.

Description of suit	Period of limitation	Time from which period begins to run
62 To enforce payment of money secured by a mortgage or otherwise charged upon immovable property.	Twelve years.	When the money sued for becomes due.
63 By a mortgagee:—		
(a) for foreclosure;	Thirty years.	When the money secured by the mortgage becomes due.
(b) for possession of immovable property mortgaged.	Twelve years.	When the mortgagee becomes entitled to possession.
64 For possession of immovable property based on previous possession and not on title, when the plaintiff while in possession of the property has been dispossessed.	Twelve years.	The date of dispossession.
65 For possession of immovable property or any interest therein based on title.	Twelve years.	When the possession of the defendant becomes adverse to the plaintiff.
<i>Explanation.</i> —For the purposes of this article—		
(a) where the suit is by a remainderman, a reversioner (other than a landlord) or a devisee, the possession of the defendant shall be deemed to become adverse only when the estate of the remainderman, reversioner or devisee, as the case may be, falls into possession;		
(b) where the suit is by a Hindu or Muslim entitled to the possession of immovable property on the death of a Hindu or Muslim female, the possession of the defendant shall be deemed to become adverse only when the female dies;		
(c) where the suit is by a purchaser at a sale in execution of a decree when the judgement-debtor was out of possession at the date of the sale, the purchaser shall be deemed		

Description of suit	Period of limitation	Time from which period begins to run
to be a representative of the judgement-debtor who was out of possession.		
66 For possession of immovable property when the plaintiff has become entitled to possession by reason of any forfeiture or breach of condition.	Twelve years.	When the forfeiture is incurred or the condition is broken.
67 By a landlord to recover possession from a tenant.	Twelve years.	When the tenancy is determined.

## PART VI.—SUITS RELATING TO MOVABLE PROPERTY

68 For specific movable property lost, or acquired by theft, or dishonest misappropriation or conversion.	Three years.	When the person having the right to the possession of the property first learns in whose possession it is.
69 For other specific movable property.	Three years.	When the property is wrongfully taken.
70 To recover movable property deposited or pawned from a depositary or pawnee.	Three years.	The date of refusal after demand.
71 To recover movable property deposited or pawned, and afterwards bought from the depositary or pawnee for a valuable consideration.	Three years.	When the sale becomes known to the plaintiff.

## PART VII.—SUITS RELATING TO TORT

72 For compensation for doing or for omitting to do an act alleged to be in pursuance of any enactment in force for the time being in the territories to which this Act extends.	One year.	When the act or omission takes place.
73 For compensation for false imprisonment.	One year.	When the imprisonment ends.
74 For compensation for a malicious prosecution.	One year.	When the plaintiff is acquitted or the prosecution is otherwise terminated.
75 For compensation for libel.	One year.	When the libel is published.
76 For compensation for slander.	One year.	When the words are spoken, or, if the words are not actionable in themselves, when the special damage complained of results.
77 For compensation for loss of service occasioned by the seduction of the plaintiff's servant or daughter.	One year.	When the loss occurs.

Description of suit	Period of limitation	Time from which period begins to run
78 For compensation for inducing a person to break a contract with the plaintiff.	One year.	The date of the breach.
79 For compensation for an illegal, irregular or excessive distress.	One year.	The date of the distress.
80 For compensation for wrongful seizure of movable property under legal process.	One year.	The date of the seizure.
81 By executors, administrators or representatives under the Legal Representatives' Suits Act, 1855.	One year.	The date of the death of the person wronged.
82 By executors, administrators or representatives under the Indian Fatal Accidents Act, 1855.	One year.	The date of the death of the person killed.
83 Under the Legal Representatives' Suits Act, 1855 against an executor, an administrator or any other representative.	Two years.	When the wrong complained of is done.
84 Against one who, having a right to use property for specific purposes, perverts it to other purposes.	Two years.	When the perversion first becomes known to the person injured thereby.
85 For compensation for obstructing a way or a watercourse.	Three years.	The date of the obstruction.
86 For compensation for diverting a watercourse.	Three years.	The date of the diversion.
87 For compensation for trespass upon immovable property.	Three years.	The date of the trespass.
88 For compensation for infringing copyright or any other exclusive privilege.	Three years.	The date of the infringement.
89 To restrain waste . . .	Three years.	When the waste begins.
90 For compensation for injury caused by an injunction wrongfully obtained.	Three years.	When the injunction ceases.
91 For compensation,— (a) for wrongfully taking or detaining any specific movable property lost, or acquired by theft, or dishonest misappropriation or conversion ;	Three years.	When the person having the right to the possession of the property first learns in whose possession it is;

12 of 1855.

13 of 1855.

12 of 1855.

Description of suit	Period of limitation	Time from which period begins to run
(5) for wrongfully taking or injuring or wrongfully detaining any other specific movable property.	Three years.	When the property is wrongfully taken or injured, or when the detainer's possession becomes unlawful.

## PART VIII.—SUITS RELATING TO TRUSTS AND TRUST PROPERTY

92 To recover possession of immovable property conveyed or bequeathed in trust and afterwards transferred to the trustee for a valuable consideration.	Twelve years.	When the transfer becomes known to the plaintiff.
93 To recover possession of movable property conveyed or bequeathed in trust and afterwards transferred by the trustee for a valuable consideration.	Three years.	When the transfer becomes known to the plaintiff.
94 To set aside a transfer of immovable property comprised in a Hindu, Muslim or Buddhist religious or charitable endowment, made by a manager thereof for a valuable consideration.	Twelve years.	When the transfer becomes known to the plaintiff.
95 To set aside a transfer of movable property comprised in a Hindu, Muslim or Buddhist religious or charitable endowment, made by a manager thereof for a valuable consideration.	Three years.	When the transfer becomes known to the plaintiff.
96 By the manager of a Hindu, Muslim or Buddhist religious or charitable endowment to recover possession of movable or immovable property comprised in the endowment which has been transferred by a previous manager for a valuable consideration.	Twelve years.	The date of death, resignation or removal of the transferor or the date of appointment of the plaintiff as manager of the endowment, whichever is later.

## PART IX.—SUITS RELATING TO MISCELLANEOUS MATTERS

97 To enforce a right of pre-emption whether the right is founded on law or general usage or on special contract.	One year.	When the purchaser takes under the sale sought to be impeached, physical possession of the whole or part of the property sold, or, where the subject matter of the sale does not admit of
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Description of suit	Period of limitation	Time from which period begins to run
98 By a person against whom an order under rule 63 or rule 103 of Order XXI of the Code of Civil Procedure, 1908 or an order under section 28 of the Presidency Small Cause Courts Act, 1882, has been made, to establish the right which he claims to the property comprised in the order.	One year.	physical possession of the whole or part of the property, when the instrument of sale is registered.  The date of the final order.
99 To set aside a sale by a civil or revenue court or a sale for arrears of Government revenue or for any demand recoverable as such arrears.	One year.	When the sale is confirmed or would otherwise have become final and conclusive had no such suit been brought.
100 To alter or set aside any decision or order of a civil court in any proceeding other than a suit or any act or order of an officer of Government in his official capacity.	One year.	The date of the final decision or order by the Court or the date of the act or order of the officer, as the case may be.
101 Upon a judgement, including a foreign judgement, or a recognisance.	Three years.	The date of the judgement or recognisance.
102 For property which the plaintiff has conveyed while insane.	Three years.	When the plaintiff is restored to sanity and has knowledge of the conveyance.
103 To make good out of the general estate of a deceased trustee the loss occasioned by a breach of trust.	Three years.	The date of the trustee's death or if the loss has not then resulted, the date of the loss.
104 To establish a periodically recurring right.	Three years.	When the plaintiff is first refused the enjoyment of the right.
105 By a Hindu for arrears of maintenance.	Three years.	When the arrears are payable.
106 For a legacy or for a share of a residue bequeathed by a testator or for a distributive share of the property of an intestate against an executor or an administrator or some other person legally charged with the duty of distributing the estate.	Twelve years.	When the legacy or share becomes payable or deliverable.

5 of 1908.

15 of 1882.



Description of suit	Period of limitation	Time from which period begins to run
<p>107 For possession of a hereditary office.</p> <p><i>Explanation.</i>—A hereditary office is possessed when the properties thereof are usually received, or (if there are no properties) when the duties thereof are usually performed.</p>	Twelve years.	When the defendant takes possession of the office adversely to the plaintiff.
<p>108 Suit during the life of a Hindu or Muslim female by a Hindu or Muslim who, if the female died at the date of instituting the suit, would be entitled to the possession of land, to have an alienation of such land made by the female declared to be void except for her life or until her re-marriage.</p>	Twelve years.	The date of the alienation.
<p>109 By a Hindu governed by Mitakshara law to set aside his father's alienation of ancestral property.</p>	Twelve years.	When the alienee takes possession of the property.
<p>110 By a person excluded from a joint family property to enforce a right to share therein.</p>	Twelve years.	When the exclusion becomes known to the plaintiff.
<p>111 By or on behalf of any local authority for possession of any public street or road or any part thereof from which it has been dispossessed or of which it has discontinued the possession.</p>	Thirty years.	The date of the dispossession or discontinuance.
<p>112 Any suit by or on behalf of the Central Government or any State Government (except a suit before the Supreme Court in the exercise of its original jurisdiction).</p>	Thirty years.	When the period of limitation would begin to run under this Act against a like suit by a private person.

## PART X.—SUITS FOR WHICH THERE IS NO PRESCRIBED PERIOD

113 Any suit for which no period of limitation is provided elsewhere in this Schedule.	Three years.	When the right to sue accrues.
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## SECOND DIVISION—APPEALS

Description of appeal	Period of limitation	Time from which period begins to run
114 Appeal from an order of acquittal,—		
(a) under sub-section (1) or sub-section (2) of section 417 of the Code of Criminal Procedure, 1898;	Ninety days.	The date of the order appealed from.
(b) under sub-section (3) of section 417 of that Code.	Thirty days.	The date of the grant of special leave.
115 Under the same Code to any court from a sentence or order not being an order of acquittal or under the Code of Civil Procedure, 1908, to any court from any decree or order.	Thirty days.	The date of the sentence, decree or order.
116 From a decree or order of any High Court to the same Court.	Thirty days.	The date of the decree or order.

5 of 1898.

5 of 1908.

## THIRD DIVISION—APPLICATIONS

Description of application	Period of limitation	Time from which period begins to run
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## PART I.—APPLICATIONS IN SPECIFIED CASES

117 For leave to appear and defend a suit under summary procedure.	Ten days.	When the summons is served.
118 Under the Arbitration Act, 1940,—		
(a) for the filing in court of an award;	Thirty days.	The date of service of the notice of the making of the award;
(b) for setting aside an award or getting an award remitted for reconsideration.	Thirty days.	The date of service of the notice of the filing of the award.
119 Under the Code of Civil Procedure, 1908, to have the legal representative of a deceased plaintiff or appellant or of a deceased defendant or respondent, made a party.	Thirty days.	The date of death of the plaintiff, appellant, defendant or respondent as the case may be.
120 Under the same Code for an order to set aside an abatement.	Thirty days.	The date of abatement.

10 of 1940.

5 of 1908.

Description of application	Period of limitation	Time from which period begins to run
121 To restore a suit or appeal or application for review or revision dismissed for default of appearance or for want of prosecution or for failure to pay costs of service of process or to furnish security for costs.	Thirty days.	The date of dismissal.
122 To set aside a decree passed <i>ex parte</i> or to rehear an appeal decreed or heard <i>ex parte</i> .	Thirty days.	The date of the decree or where the summons or notice was not duly served, when the applicant had knowledge of the decree.
<p><i>Explanation.</i>—For the purpose of this article, substituted service under rule 20 of Order V of the Code of Civil Procedure, 1908 shall not be deemed to be due service.</p>		
123 For a review of judgement by a court other than the Supreme Court.	Thirty days.	The date of the decree or order.
124 To record an adjustment or satisfaction of a decree.	Thirty days.	When the payment or adjustment is made.
125 For the payment of the amount of a decree by instalments.	Thirty days.	The date of the decree.
126 To set aside a sale in execution of a decree, including any such application by a judgment-debtor.	Thirty days.	The date of the sale.
127 For possession by one dispossessed of immovable property and disputing the right of the decree-holder or purchaser at a sale in execution of a decree.	Thirty days.	The date of the dispossession.
128 For possession after removing resistance or obstruction to delivery of possession of immovable property decreed or sold in execution of a decree.	Thirty days.	The date of resistance or obstruction.
129 For leave to appeal as a pauper.	Thirty days.	The date of decree appealed from.
130 To any court for the exercise of its powers of revision under the Code of Civil Procedure, 1908 or the Code of Criminal Procedure, 1898.	Thirty days.	The date of the decree or order or sentence sought to be revised.

5 of 1908.

5 of 1908.

5 of 1898.

Description of application	Period of limitation	Time from which period begins to run
131 To the High Court for a certificate of fitness to appeal to the Supreme Court under clause (1) of article 132, article 133 or sub-clause (c) of clause (1) of article 134 of the Constitution or under any other law for the time being in force.	Thirty days.	The date of the decree, order or sentence.
132 To the Supreme Court for special leave to appeal,— (a) in a case involving death sentence; (b) in a case where leave to appeal was refused by the High Court; (c) in any other case.	Thirty days.  Sixty days.  Ninety days.	The date of the judgement, final order or sentence.  The date of the order of refusal.  The date of the judgement or order.
133 For delivery of possession by a purchaser of immovable property at a sale in execution of a decree.	One year.	When the sale becomes absolute.
134 For the enforcement of a decree granting a mandatory injunction.	Three years.	The date of the decree or where a date is fixed for performance, such date.
135 For the execution of any decree (other than a decree granting a mandatory injunction) or order of any civil court.	Twelve years.	Where the decree or order becomes enforceable or where the decree or any subsequent order directs any payment of money or the delivery of any property to be made at a certain date or at recurring periods, when default in making the payment or delivery in respect of which execution is sought, takes place:  Provided that an application for the enforcement or execution of a decree granting a perpetual injunction shall not be subject to any period of limitation.
PART II.—OTHER APPLICATIONS		
136 Any other application for which no period of limitation is provided elsewhere in this Division.	Three years.	When the right to apply accrues.

## STATEMENT OF OBJECTS AND REASONS

This Bill seeks to implement the Third Report of the Law Commission on the Indian Limitation Act, 1908, with one important modification. While giving effect to the recommendations of the Commission as respects the re-arrangement of the articles contained in the First Schedule in accordance with their subject-matter and the rationalisation of the periods of limitation as far as possible, it is felt that it would be more advantageous to adhere to the existing scheme which in almost all cases indicates the specific point of time from which the period of limitation begins to run.

An earlier Bill on the subject introduced in the Lok Sabha on the 23rd December, 1960 lapsed on its dissolution.

The notes on clauses explain in detail the provisions of the Bill.

NEW DELHI;

*The 15th June, 1962.*

A. K. SEN.

*Notes on clauses*

*Clause 2.*—A new definition of “application” is being inserted so as to include a petition, original or otherwise. The object is to provide a period of limitation for original applications and petitions under special laws as there is no such provision now. Consequential changes have been made in the definition of “applicant”.

The definitions of “plaintiff” and “defendant” as they stand in the present Act include a person from or through whom a plaintiff or defendant derives his right or liability to sue or to be sued. The object of this inclusive definition is to make it clear that the cause of action for a person in whom the right to sue is vested and the person on whom the right has subsequently devolved is one and the same. The position holds good in the case of executors, administrators and representatives also, and the inclusive definition is enlarged so as to make this position also clear.

The new definition of “prescribed period” will make it clear that the period of limitation specified in the Schedule will have to be computed in accordance with the provisions of the Act; that is to say, wherever they apply, the sections of the Act will have the effect of extending the periods of limitation specified in the Schedule.

*Clause 3.*—Sub-clause (2) (b) provides that a claim by way of set-off or counter-claim shall be treated as a separate suit and that, in the case of a set-off, time should cease to run from the date of the suit in which it is pleaded as the set-off arises out of the same transaction and should relate back to the date of the suit; and that in the case of a counter-claim, time should cease to run from the date on which the claim is made as it is really in the nature of a separate suit.

Sub-clause (2) (c) sets at rest the conflict of decisions as to when exactly time ceases to run in the case of an application by notice of exactly time ceases to run in the case of an application by notice of motion. It is now provided that time ceases to run when notice of view more favourable to the applicant.

*Clause 5.*—Instead of leaving it to the different States or High Courts to extend the application of section 5 to applications other

than those enumerated in that section as now in force, this clause provides for the automatic application of this section to all applications, other than those arising under Order XXI of the Code of Civil Procedure, 1908, relating to execution of decrees. In the case of special or local laws, it will be open to such laws to provide that section 5 will not apply.

*Clause 6.*—This reproduces section 6 of the existing Act with the following modifications:—

(a) In sub-clause (4), a clarificatory amendment is being made by the substitution of the words “at the date of the death of the person whom he represents” for the words “at the date of death affected by any such disability”;

(b) sub-clause (5), which is new, removes the conflict on the question whether, when a person under disability dies after the disability ceases but within the time allowed to him by law to institute a suit, his legal representative can take advantage of the extended period to the same extent as in the case where the disability of a person continues up to his death.

*Clause 7.*—The word “discharge” in the existing section 7 has been liberally interpreted by the courts to include all kinds of discharge, and not merely discharge of money claims. The Explanation is intended to make the position clear. It is also made clear that, in the case of the manager of a Hindu joint family governed by the Mitakshara law, his authority to give a valid discharge can be inferred only when he is both the *de jure* and *de facto* manager.

*Clause 12.*—The existing section 12 is being amended,—

(i) to include applications for revision within its scope;

(ii) to provide expressly that the time requisite for obtaining a copy of the judgment in the case of an application for leave to appeal is also to be excluded;

(iii) to make it clear that any delay in the office of the court in drawing up a decree or order before the application for a copy thereof is made, shall not be excluded.

*Clause 13.*—Clause 13 is section 14 of the existing Act with the following changes:—

In sub-clause (1) for the words “cause of action” the words “matter in issue” are being substituted as the former expression tends to make the relief too narrow.

In sub-clause (3), which is new, it is provided that if a suit or application is withdrawn under Order XXIII of the Code of Civil Procedure, 1908, on grounds similar to those specified in this clause, the time spent in prosecuting such proceedings shall be excluded. There is no justification for denying a litigant this right when the grounds of withdrawal are those contemplated by this clause and to this extent Order XXIII r. 2 requires to be superseded.

Incidentally, prior proceedings in a court of revision are also brought within the scope of this clause.

*Clause 14.*—In sub-clause (2) provision is made for excluding the time taken in obtaining the consent of the Central Government or any other authority for instituting any proceedings (for example, under sections 86 and 87 of the Code of Civil Procedure, 1908). Such cases are analogous to those which provide for statutory notices, the period of which is excluded by the existing section.

Sub-clause (3) is new. It is common knowledge that by the time a receiver or liquidator is appointed in insolvency or liquidation proceedings and the receiver or liquidator after getting information about the assets and liabilities of the estate sits down to the task of realising the assets of the estate, claims in favour of such estate or company get barred to the detriment of the persons entitled to the benefits of the assets. To avoid this hardship this sub-clause provides that the period between the filing of the petition for winding up or adjudication and the appointment of the receiver (including interim receiver) or liquidator (including a provisional liquidator) and a period of three months thereafter (to enable him to acquaint himself with the affairs of the estate) should be excluded.

Sub-clauses (4) and (5) reproduce sections 13 and 16 of the existing Act.

*Clause 15.*—Section 17 of the existing Act is confined to rights of action accruing after death. In *Meyappa v. Subramanya* (20 C.W.N. 833), the Privy Council observed that when the cause of action arises in favour of a deceased person after his death time will at once begin to run. Some courts have applied section 17 to cases where the right accrues on death as in the case of partnerships. The clause, as now proposed to be amended, will make it applicable to rights of action accruing on death or thereafter.



*Clause 16.*—Section 18 of the existing Act has been re-cast on the lines of section 26 of the Limitation Act, 1939, of the United Kingdom so as to include actions based on fraud and also for relief founded on mistake. The clause also seeks to afford suitable protection to purchasers for valuable consideration in all such cases.

Sub-clause (2) incorporates the principle contained in the proviso to section 48 of the Code of Civil Procedure, 1908, which now finds a place in this Bill (see article 135). The benefit is, however, made available only if the application for extension is made within one year from the date of discovery of the fraud or cessation of force.

*Clause 17.*—Under the Schedule as now proposed, the time limit of 12 years for execution applications would not be capable of extension and, therefore, Explanation (c) makes it clear that an application for the execution of a decree or order shall not be deemed to be an application in respect of any property or right. Otherwise, this reproduces section 19 of the existing Act.

*Clause 18.*—For the reasons stated against clause 17, the Explanation is amended to provide that the expression “debt” shall not include money payable under a decree or order of a court.

*Clause 20.*—The existing section 22 is being amended so that an omission to implead a person owing to a *bona fide* mistake does not deprive him of his rights against that person if the court is satisfied in that behalf.

*Clauses 24 to 26.*—These reproduce sections 26, 27 and 28 of the existing Act. Sections 26 and 27 deal with the acquisition of rights of easement by prescription on the basis that prescription is really ancillary to the law of limitation. Limitation of actions is the procedural equivalent of the prescription of rights. The two sections also prescribe a period of limitation for the bringing of suits relating to easements acquired by prescription and also deal with the computation of the period prescribed therefor. Section 28 is a general provision and deals with the extinguishment of right to property, whether movable or immovable. The Law Commission has proposed that sections 26 and 27 of the existing Act should be repealed and the Indian Easements Act, 1882, should be extended to the territories to which sections 26 and 27 now apply in order to secure uniformity in the law. The Indian Easements Act, 1882, which extends only to a few States, deals exhaustively with the law relating to easements and licences, their acquisition, transfer etc., and in pith and substance is a law relating to rights in or over land (an entry in the State List) and therefore it is not possible by a Parliamentary law to extend that Act to those parts of India to which it does not

285 G of I Ex—5.

now extend. On the other hand, it would have been possible for Parliament to extend sections 26 and 27 of the existing Act to those parts of India to which the Indian Easements Act, 1882, now applies and thereby secure some measure of uniformity. Sections 26 and 27 to a large extent correspond to sections 15 and 16 of the Indian Easements Act, 1882. As sections 15 and 16 are more exhaustive, the better course would be to retain sections 26 and 27 in this Bill for the time being and this is what clauses 24 and 25 seek to do. As and when the Indian Easements Act, 1882, is made applicable to any State by State legislation, clauses 24 and 25 would automatically become inapplicable by reason of the provisions contained in clause 28(4).

*Clause 28.*—Sub-clause (2) amends section 29(2) of the existing Act to provide that the principles contained in clauses 4 to 23 apply uniformly to all special or local laws, in the absence of any local law excluding the application of any or all of those provisions in any given case.

Sub-clause (3) amplifies section 29(3) of the existing Act so as to exclude the application of this law to suits under any law dealing with marriage or divorce.

*Clauses 29 and 30.*—Suitable provisions are being made to cover cases where the period of limitation is being reduced, a longer period being allowed in the case of suits for redemption, etc., as the period is being reduced from sixty years to thirty years in such cases. In cases where the period is increased but the cause of action has already become barred, clause 30 makes it clear that the rights will not be revived thereby.

## THE FIRST SCHEDULE

### FIRST DIVISION

#### *Part I.—Suits relating to accounts*

Articles 1, 2, 3, 4 and 5 reproduce existing articles 85, 88, 89, 90 and 106 and deal with suits for accounts.

#### *Part II.—Suits relating to contracts*

Articles 6 to 55 relating to contracts, including implied contracts and quasi contracts, correspond to existing articles 7 to 9, 30, 31, 43, 50 to 84, 86, 87, 97, 99 to 102, 107 to 111, 113, 115 and 116. All these articles are now grouped together, the period being fixed at 3 years in all these cases. Wherever possible, articles which can be dealt with together have been combined. (Example: articles 7 and 102 have been combined in the new article 7). Similarly, articles which

may conveniently be omitted in favour of the residuary entry have been omitted. (Example, articles 80, 83, 84, 108 and 116 have all been omitted in favour of the new residuary entry 113). The distinction between contracts in writing registered and other contracts is being done away with as not being necessary and the uniformity in the period prescribed for all suits founded on contracts (including those falling under the residuary entry 113) will remove the ever arising conflict under the present law as to which article applies—whether the residuary article providing for a longer period of limitation or any other specific article providing for a shorter period.

*Part III.—Declaratory suits*

Articles 56 and 57 reproduce existing articles 92 and 118, and article 58 combines existing articles 93, 119 and 129. All these articles relate to suits for declaration in respect of different matters.

*Part IV.—Suits relating to decrees and instruments*

Article 59 combines existing articles 91 and 114, and article 60 reproduces existing article 44 but is amplified to cover cases where the ward dies before attaining majority or within three years after attaining majority.

*Part V.—Suits relating to immovable property*

Article 61 replaces existing articles 148, 134, (in so far as it relates to mortgages) and 105, with the modification that in respect of suits for redemption the period is being reduced from 60 years to 30 years (and not to 12 years as recommended by the Law Commission).

Article 62 replaces existing article 132, at the same time making it clear that the article applies to mortgages also.

Article 63 replaces existing articles 147, 135 and 146, the period of limitation in respect of suits for foreclosure being reduced from 60 years to 30 years in conformity with the period now being prescribed for suits for redemption.

Articles 142 and 144 of the existing Act have given rise to a good deal of confusion with respect to suits for possession by owners of property. Article 64 as proposed replaces article 142, but is restricted to suits based on possessory title so that an owner of property does not lose his right to the property unless the defendant in possession is able to prove adverse possession.

Article 65 is new and deals with suits based on title. This will cover existing articles 136, 137 and 138 which are all suits based on title—that is to say, suits based on the title of the predecessor-in-interest of the purchaser, whether under an ordinary purchase or

an execution sale. Existing article 47 may also be left to be covered by the new article 65 as recommended by the Law Commission in paragraph 124 of its Report. In view of article 65, existing article 144 is unnecessary. The provisions of existing articles 140 and 141 are being incorporated as suitable explanations to the new article 65. The last explanation to the new article 65 is intended to make it clear that a purchaser at a sale in execution of a decree shall be deemed to be a representative of the judgment-debtor who was out of possession at the date of the sale although it may be unnecessary in view of the definition of "plaintiff" which includes a person from or through whom the plaintiff derives his right to sue.

Articles 66 and 67 reproduce existing articles 143 and 139.

*Part VI.—Suits relating to moveable property*

Articles 68, 69, 70 and 71 reproduce existing articles 48 (first part), 49 (first part), 145 and 48A (second part) respectively. In the new article 70, the date of refusal after demand is made the starting point of limitation and there would then be no need for a 30 year period as in the existing article 145.

*Part VII.—Suits relating to tort*

Articles 72 to 91 which correspond to existing articles 2, 19 to 29 and 32 to 42 deal with suits based on tort. Most of the existing articles are being retained and the existing periods of limitation are also not being changed except in a few cases. For example, the new article 72, which reproduces existing article 2 increases the period from 90 days to one year as being more reasonable. Articles 22 and 36 have been omitted in favour of the residuary article 113.

Article 91 reproduces the latter part of articles 48 and 49.

*Part VIII.—Suits relating to trusts and trust property*

Articles 92 to 96 reproduce respectively existing articles 134 (first part), 48A (first part), 134A, 48B, 134B and 134C.

In the new article 96, replacing existing articles 134B and 134C, an amendment is made whereby the date of appointment of a new manager is also made the starting point of limitation in suitable cases.

*Part IX.—Suits relating to miscellaneous matters*

This Part groups together articles which cannot be included within any of the earlier parts.

Article 97 reproduces existing article 10.

Article 98 combines existing articles 11 and 11A.

Article 99 replaces existing article 12.

Article 100 combines articles 13 and 14.

Article 101 combines existing articles 117 and 122 but reduces the period to three years.

Articles 102, 103, 104 and 105 reproduce existing articles 94, 98, 131 and 128.

Article 106 reproduces existing article 123 with the modification that it is intended to apply where the suit is brought against an executor or administrator or some person legally charged with the duty of distributing the estate.

Articles 107, 108, 109, 110, 111 and 112 replace respectively existing articles 124, 125, 126, 127, 146A and 149.

In article 112 dealing with suits by or on behalf of the Government, (which corresponds to existing article 149) the period is reduced from 60 years to 30 years, which will also bring the period in accord with that prescribed for local authorities under article 111 (which corresponds to existing article 146A).

*Part X.—Suits for which there is no prescribed period*

Article 113 (which corresponds to existing article 120) is the residuary article for cases not covered by the earlier parts and the period is fixed at three years so that no special advantage would be gained by any one seeking to prove that the residuary article applies.

SECOND DIVISION—APPEALS

Article 114 replaces existing article 157 with the addition that appeals against orders of acquittal in cases instituted on private complaints where special leave has been obtained should be filed within one month from the grant of leave.

Article 115 combines existing articles 150, 152, 154, 155, 156 and provides a uniform period of 30 days for all appeals.

Article 116 replaces existing article 151 and provides a period of 30 days for all appeals to a High Court against its own decrees or orders.

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THIRD DIVISION—APPLICATIONS

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*Part I.—Applications in specified cases*

Article 117 reproduces existing article 159.

Article 118 combines existing articles 178 and 158 and provides a uniform period of 30 days.

Article 119 combines existing articles 176 and 177 but reduces the period to 30 days from 90 days and Article 120 reproduces existing article 171, but reduces the period to 30 days. The reduction of the period in the case of the new articles 119 and 120 will not work any hardship as the court will have the power to excuse delay under the altered provisions of clause 5 of the Bill.

Article 121, in replacement of existing articles 160, 163, 168 and 172, provides a uniform period of 30 days for setting aside orders of dismissal for defaults, like failure to appear etc.

Article 122 combines existing articles 164 and 169. The Explanation seeks to override the case-law that the expression "duly served" in column 3 includes substituted service.

Article 123 groups together existing articles 161, 162 and 173 and provides a uniform period of 30 days for all cases of review.

Articles 124 and 125 replace existing articles 174 and 175.

Articles 126, 127 and 128 replace existing articles 166, 165 and 167.

Article 129 reproduces existing article 170.

Article 130 is new.

Articles 131 and 132 replace existing articles 153 and 179 by more comprehensive provisions for applications to the High Court for certificate of fitness to appeal to the Supreme Court or for special leave to appeal to the Supreme Court in all civil and criminal matters.

Article 133. As existing article 182 is being omitted, article 180, which the proposed article 133 seeks to replace, will apply to all purchasers in execution, whether decree holders or not. The period, however, is being reduced to one year from three years.

Article 134 is new and deals with decrees granting mandatory injunctions.

Article 135. Existing article 182 has been a fruitful source of litigation and therefore the proposed article 135, in lieu thereof,

provides that the maximum period of limitation for the execution of a decree or order of any civil court shall be 12 years from the date when the decree or order became enforceable (which is usually the date of the decree or order) or, where the decree or subsequent order directs any payment of money or the delivery of any property to be made at a certain date or at recurring periods, from the date of the default in making the payment or delivery in respect of which the applicant seeks to execute the decree or order. There is no reason why a decree should be kept alive for more than 12 years. Section 48 of the Code of Civil Procedure, 1908, provides that a decree ceases to be enforceable after 12 years. In England also the time fixed for enforcing a judgment is 12 years. Where, however, the judgment-debtor has by fraud or force prevented the execution of a decree within the prescribed period, suitable provisions for extending the period are being made in clause 16 of the Bill on the lines of section 48(2) of the Code of Civil Procedure, 1908.

Existing article 183, which makes special provision for decrees and orders of courts established by Royal Charter, is no longer necessary.

It is also provided that the period of 12 years will not apply to decrees granting perpetual injunctions.

#### *Part II.—Other applications*

Article 136. As in the case of suits, article 136, which corresponds to existing article 181, is the residuary article for all applications, including petitions.

Existing articles 1, 3, 5, 6, 15, 16, 17, 18, 45, 46, 103, 104, 112, 121 and 130 have been omitted as recommended by the Law Commission.

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S. N. MUKERJEE,  
*Secretary.*

